

Poland

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PART 1 – NATIONAL FRAMEWORK

Overview

National social dialogue	Principal Level of Collective Bargaining	Enterprise
	Workplace Representation	Union (or works council)
	Board-level Representation	yes ((formerly) state-owned enterprises)
National worker representation	Unions currently provide representation for employees at the workplace and where there are no unions there is no representation. New legislation implementing the EU directive on information and consultation provides for the creation of the works councils. But where unions are present works council members are chosen by them. Only if there are no unions, or the unions do not agree on nominations, is there an election.	
Principal legal documents on H&S	<p>Occupational health and safety are addressed in the Polish Constitution and in the Labour Code (1974, consolidated in 1998). The main provisions in this field are contained in the the chapter 10 of the Labour Code (titled Occupational Health and Safety Act), and in an Order of the Minister for Employment and Social Policy relating to occupational health and safety provisions (dating from September 1997).</p> <p>Overview of relevant legal documents:</p> <ol style="list-style-type: none"> 1. Act from 26.06.1974r Labour Kodeks – Dział X– Dz.U. z 1998r nr 21, pozycja 94. 2. Act from 23 maja 1991r on trade unions – Dz.U. z 2001r nr 79, poz.854. 3. Act from 24.06.1983r on social labour inspection – Dz.U. z 1983r nr 35, poz. 163. 4. Act from 13.04.2007r. on state labour inspection – Dz.U. z 2012r poz. 404. 5. Act from 6.07.2001r on tripartite committee on socio-economical matters and county committees for social dialogue – Dz.U. z 2001r nr 100 poz. 1080. 6. Regulation of prime minister 22.02.2002r on county committees on social dialogue – Dz. U. nr 17, poz. 157. 7. Regulation of prime minister z 15.12.2008r w on establishment on cross-branch committee on maximum level of exposures and dangerous agents for health of workers at the workplace – Dz.U. z 2008r nr 225, poz. 1490. 	
Public authorities on H&S	Ministry of Labour and Social Policy. The supervisory and control bodies include the National Labour Inspectorate, the National Health Inspectorate, the Office of Technical Inspection and the courts and public prosecutor's office.	
Employers' obligations on H&S	<p>The employer, who is responsible for the status of occupational safety and health (OSH) at the establishment, is obligated to protect the employees' life and health by ensuring safe and healthy working conditions and making appropriate use of the progress in science and technology. Detailed obligations of employers in respect of occupational safety and health include, among others the assessment of occupational risks; initial, periodical and control health assessment of employees; provide the employees free of charge with personal protection measures, working clothing and footwear; systematically analyse the reasons of accidents at work, occupational diseases and other diseases related to working conditions and apply the appropriate preventative measures; etc.</p> <ul style="list-style-type: none"> - If there are more than 250 employees, the employer should establish an occupational safety and health committee to act as an advisory and opinion-making body to the employer. Finally, the employer should consult with employees or their representatives all measures related to occupational safety and health. - If more than 100 employees are employed, the employer needs to establish a service for occupational safety and health, to perform advisory and control function. - If less than 100 employees are employed, an employee with other working duties or, in case of no competent employees at the establishment, a specialist from outside the establishment should be tasked with duties to be performed by the OSH service. - If there are less than 20 employees, the employer himself can be the H&S service in his enterprise 	

	(after appropriate training).							
Worker representative bodies on H&S	The key obligation of the employee is to comply with the rules and principles of occupational safety and health (OSH). Under Polish labour law, enterprises with trade union representation have a 'social labour inspection'– employee health and safety representatives with a range of rights. The aim of the inspectors is to protect employees' rights and ensure proper working conditions. Social labour inspectors (SIP) and employee representatives play a vital role in employee health and safety. Their role has a statutory basis. Social labour inspection is a 'social service' rendered by employees, with the aim of ensuring the maintenance of safety at work by employers and the protection of the employee rights specified by labour law. Inspection is managed by enterprise trade union organisations, but should represent the interests of all of a enterprise's employees, regardless of whether or not they belong to trade unions. Social labour inspectorates can issue a recommendation and the employer is obliged to provide for its implementation.							
Organisation of the social dialogue on H&S issues within the country	Actors involved		Their role		Scope of influence			
	Committee on Work Protection (under Parliament) / ROP		Composed of MEPs, social partners, government and other organisations from the OSH domain. Supervision on State Labour Inspection (LI); preparation of opinions and positions in the area of OSH.		National			
	Tripartite Committee on social and economics matters		According to the Act, tripartite committee on socio-economic matters on national and county level. Composed of government representatives and social partners. Platform for social dialogue, but only seldom on OSH matters. Trade unions note that decisions are not always kept by the government.		national and regional			
	Cross-branches Committee		Tripartite (composed by the Ministries of Health, labour, industry, environment; scientific institutions; and social partners.) established by Decree of Prime Minister. Regulating maximum exposures of dangerous substances at the workplace.		national and regional			
	Country tripartite committees		negotiations		territorial			
	OSH Committees		Consultations/negotiations		enterprise			
Specialized H&S bodies on regional, sectorial or another level	Name		Setup conditions		Composition		Role and functions	
	N/R		N/R		N/R		N/R	

PART 2 – ENTERPRISE LEVEL: ORGANISATION OF SOCIAL DIALOGUE AND WORKERS' PARTICIPATION ON H&S AT WORK

General organisation and role on H&S issues	<p>According to the Law, an employer is obliged to consult all OSH matters with employees or their representatives. Representatives (social labour inspectors – SIP) are appointed (in most cases by the trade union) according to rules established in enterprises.</p> <p>Moreover, SIP are not the only type of workers representation regarding H&S. In enterprises where there are no Trade Unions, employee representatives are selected by the mode agreed upon with the employer. These Safety Representatives have the right to participate in the OSH Committees, to be consulted on OSH (including risk assessment), and participate in designing and implementing actions in relation with OSH area (e.g. work organisation, chemical substances, PPE, clothing, OSH training). Nevertheless, contrary to the SIP, they have no employment protection.</p> <p>The basis of the activities of social labour inspectors (SIP) is an annual work plan,</p>
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	<p>prepared for a period of one calendar year and approved by enterprise trade union organisations. In undertakings with more than 250 employees, a committee for safety and health at work (OSH Committee) is established as a body to give advice and opinions. An employer who employs more than 100 employees shall establish an occupational safety and health service (OSH service), which has advisory and inspection functions with respect to safety and health at work.</p>
Interaction of H&S representation with the general representation of workers	<p>Two main channels of employee representation at workplace level include trade unions and works councils. Works councils have more extensive rights to information than trade unions, but have no specific competency regarding health & safety issues. Works councils became mandatory in enterprises with more than 50 employees, except for state-owned enterprises in which employee board-level representation exists; enterprises with mixed capital (public-private) employing at least 50 employees; and state-owned film enterprises. The employer is also obliged to consult the works council regarding the state of affairs, structure and envisaged changes with regard to employment, as well as actions aiming to maintain the current level of employment; and the actions that may cause important changes in the organisation of work or employment.</p> <p>The body responsible for overseeing health and safety at work and the protection of employee rights is the 'social labour inspectorate', which only exists in enterprises with trade unions. The threshold for a basic unit of trade unions (enterprise-level union) is determined at 10 eligible employees.</p>
Worker representation bodies on H&S at work	
<i>Implementation of worker representation in H&S on enterprise level</i>	All workers, regardless of whether or not they belong to trade unions.
<i>Thresholds of implementation</i>	<p>No threshold is defined with regards to the social labour inspectors. Soft rules apply. Under Polish labour law, enterprises with trade union representation have a 'social labour inspection' - employee health and safety representatives with a range of rights. An OSH Committee is established in enterprises with at least 250 employees.</p>
<i>Role of the trade unions</i>	<p>The enterprise trade union organises the inspectors' election, select the delegates for the OSH committee and coordinates activities. In undertakings with more than 250 employees, trade unionists are members of OSH Committees. If trade unions are present (at least 10 members), OSH matters are under their control. Trade unions hold social labour inspectors accountable for their actions and may take steps to assist them in performing their supervisory duties.</p>
<i>Composition, mode of nomination or election of members</i>	<p>1. According to the law, delegates (social labour inspectors - SIP) should be elected by employees. These elections are conducted directly or indirectly, depending on the workforce size:</p> <ul style="list-style-type: none"> - enterprise and departmental inspectors in enterprises or departments with up to 300 employees are elected by a general meeting of enterprise or department employees ; - in enterprises or departments employing more than 300 employees, enterprise and departmental labour inspectors are elected by assemblies of lower-level labour inspectors: the enterprise SIP is elected by meeting of section/department and group SIPs; the section or department SIPs are elected by meeting of group SIPs - group social labour inspectors are elected by a general assembly of the employees of organisational units. <p>The trade union decides about the structure of SIPs (on enterprise level, on section or workplace level, or on departments level). Elections are organised by the trade unions according to given rules. Once elected, inspectors have a term of office of four years.</p> <p>2. The OSH Committee is composed of both employer and employees (parity), including OSH services and enterprise doctor. The SIP has the role of vice chairman. The employer or the person designated by the employer is the chairperson. Employee representatives in the committee are nominated by the trade union or (if there is no trade union) according to the agreement concluded in the enterprise. The same person can candidate again after his/her mandate. The Committee is an advisory body and the length of its mandate is not defined. Meetings of the committee are held at least once every quarter.</p>
<i>Area of competencies</i>	<p>The social labour inspectorate mostly has supervisory competencies with regard to the employer's observance of labour law regulations and the provisions of the collective bargaining agreements. The labour regulations cover: the health and safety of employees; leave; working time; the protection of working women, minors and people with disabilities; and social benefits resulting from accidents at work and</p>

	occupational diseases.	
Functions	<p>1. OSH committees: advisory and consultation body. The committee reviews working conditions, makes a periodic assessment of safety and health at work, gives opinions on measures implemented by the employer in order to prevent accidents at work and occupational diseases, suggests measures to improve working conditions, and cooperates with the employer in the performance of his/her duties concerning safety and health at work.</p> <p>2. Social Labour Inspectors (SIP): control and decision body. Their aim is to ensure the maintenance of safety at work by employers and the protection of the employee rights specified by labour law.</p>	
Rights of workers' representatives on H&S		
Right of withdrawal, of production stop in case of immediate danger	No (individual right)	
	<p>This rights belongs to the individual employee. Each employee has the right to refrain from performing work, and shall immediately notify his/her superior that he/she has stopped working, when working conditions do not comply with the provisions of safety and health at work and create immediate danger to the employee's health or life or when the work performed by an employee causes such danger to other persons.</p> <p>Where a direct threat to the health and life of employees exists, the social labour inspector may recommend that the employer immediately remove this threat. If the employer does not take appropriate steps to comply with this recommendation, the social labour inspector may issue a recommendation to stop the work and notify the enterprise's trade union organisations about this decision. The employer is obliged to comply with the recommendation or, if it believes the recommendation groundless, submit an objection to a competent inspector of the State Labour Inspection. Hence, only the State Labour Inspection has the authority to stop work; the social labour inspector (safety delegate) can only initiate a procedure.</p>	
Right to conduct surveys	<p>Yes</p> <p>According to the law, social labour inspectors are entitled to enter at any time the enterprise's facilities in order to conduct monitoring and control activities with regard to technical safety and the legal protection of workers. In case the OSH committee initiates an OSH related survey, the employer may say no only on very founded basis. Therefore it is of high importance that the OSH committee / or the OSH representative conclude an agreement of cooperation with the employer.</p>	
Right to require external assessments	<p>Yes</p> <p>The social labour inspector can demand that an inspector of the State Labour Inspection conducts an inspection, and he/she has the right to participate in such inspections</p>	
Right to lodge an appeal	<p>Yes</p> <p>State Labour Inspection</p>	
Right to receive training	Yes	
	N/A	
	Amount of training	Is not defined
	Frequency of training	Is not defined
	Training providers	Training of SIP is managed by branch trade unions, expert enterprises and training centre of the State Labour Inspectorate
Allocated time during working hours to conduct their role	<p>Yes</p> <p>There is no formal regulation on this issue. Time for consultations, investigation of accidents, etc. is used whenever there is a need. On other topics, workers reps (including SIP) should act outside their working hours.</p> <p>In some cases, OSH representatives are entitled to 10% time off (that's without training & time for investigating accidents).</p>	
Protection against sanctions, dismissals in the frame of their mandate	Yes	
	Only for social labour inspectors (duration of mandate + 1 year)	
Link and the nature of the relations between the employee representatives and the trade unions	Social labour inspectors are mostly trade union members.	

PART 3 – ASSESSMENT OF THE SOCIAL DIALOGUE AND WORKERS' PARTICIPATION IN THE COUNTRY

Evolution

Significant changes within the various instruments on H&S issues during the last 5 years	No	
	Objectives of these changes	N/A
	Management of these changes	N/A
	Effects on the improvement or deterioration of the handling of these issues	N/A
Assessment of the achievements on H&S issues through social dialogue	Stable	
	Some important milestones	N/A

Perspectives to achieve a good social dialogue and workers' participation on H&S issues

Missing factors	Social dialogue should be multilevel, there must be a good will, knowledge regarding issues, training (joint training is the best one) and in general respect between partners. There are less safety delegates in SMEs. The social labour inspectors (SIP) only function well in enterprises with trade unions.
Existing key success factors	It seems to be that OSH is not a priority, both for the public, employers, employees and their respective organisations. It is an issue for a narrow group of specialists. Media are interested only in cases of fatal accidents or catastrophes with many victims. So it is difficult to speak about any valid guarantees for a success of social dialogue in OSH.

PART 4 – APPENDICES

Glossary

Social labour inspector (SIP)	Employee health and safety representative with a range of rights. The aim of the inspectors is to protect employees' rights and ensure proper working conditions
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Interesting links

Ministry of Labour and Social Policy (<http://www.mpips.gov.pl>);
Central Institute for Labour Protection (<http://www.ciop.pl>)

Sources

Trade union contacts	NSZZ (Solidarnosc)	Pawlaczyk Iwona
	All-Poland Alliance for Trade Unions	Goc Dariusz
Other	<ul style="list-style-type: none"> – http://www.worker-participation.eu – Questionnaire reply – Ministry of Labour and Social Protection – Labour Code – Eurofound – EU OSHA 	